

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES
(Attorney Docket № 14794US02)**

In the Application of:

Jeyhan Karaoguz, et al.

Serial № 10/675,287

Filed: September 30, 2003

For: MEDIA EXCHANGE NETWORK
SUPPORTING TRANSPARENT PC-
TO-PC MEDIA INTERCHANGE
INTERFACE ALSO AVAILABLE

Examiner: Patrick A. Ryan

Group Art Unit: 2427

Confirmation № 5434

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APPEAL BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is an appeal from an Office Action dated May 5, 2009 (“Final Office Action”), in which claims 1-31 were finally rejected. The Appellant respectfully requests that the Board of Patent Appeals and Interferences (“Board”) reverses the final rejection of claims 1-31 of the present application. The Appellant notes that this Appeal Brief is timely filed within the period for reply that ends on September 28, 2009.

REAL PARTY IN INTEREST
(37 C.F.R. § 41.37(c)(1)(i))

Broadcom Corporation, a corporation organized under the laws of the state of California, and having a place of business at 5300 California Avenue, Irvine, California 92617, has acquired the entire right, title and interest in and to the invention, the application, and any and all patents to be obtained therefor, as set forth in the Assignment recorded at Reel 014340, Frame 0169 in the PTO Assignment Search room.

RELATED APPEALS AND INTERFERENCES
(37 C.F.R. § 41.37(c)(1)(ii))

The Appellant is unaware of any related appeals or interferences.

STATUS OF THE CLAIMS
(37 C.F.R. § 41.37(c)(1)(iii))

The present application includes pending claims 1-31, all of which stand rejected under 35 U.S.C. § 103(a). See the Final Office Action at page 3. The Appellant identifies claims 1-31 as the claims that are being appealed. The text of the pending claims is provided in the Claims Appendix.

STATUS OF AMENDMENTS
(37 C.F.R. § 41.37(c)(1)(iv))

The Appellant has not amended any claims subsequent to the final rejection of claims 1-31 mailed on July 6, 2009.

SUMMARY OF CLAIMED SUBJECT MATTER
(37 C.F.R. § 41.37(c)(1)(v))

Independent claim 1 recites the following:

A method for providing media in a communication network¹, the method comprising:

locating media stored locally at least at a first geographic location (e.g., 103 in Fig. 1) in the communication network²;

organizing, at said first geographic location, said located media and at least a portion of television broadcast media into channels³; and

transparently transferring from said first geographic location, at least a portion of said organized channels to at least a second geographic location (e.g., 110 in Fig. 1) within the communication network (e.g. 100 in Fig. 1)⁴.

Independent claim 11 recites the following:

A machine-readable storage having stored thereon, a computer program having at least one code section for providing media in a communication network, the at least one code section being executable by a machine for causing the machine to perform steps comprising⁵:

locating media stored locally at least at a first geographic location (e.g., 103 in Fig. 1) in the communication network⁶;

organizing, at said first geographic location, said located media and at least a portion of television broadcast media into channels⁷; and

¹ See present application at, e.g., page 4, lines 2-3.

² See *id.* at, e.g., page 4, lines 3-6.

³ See *id.* at, e.g., page 4, lines 3-6; and page 14, line 28 – page 15, line 2.

⁴ See *id.* at, e.g., page 4, lines 6-8.

⁵ See *id.* at, e.g., page 5, lines 1-5.

⁶ See *id.* at, e.g., page 4, lines 3-6.

transparently transferring from said first geographic location, at least a portion of said organized channels to at least a second geographic location (e.g., 110 in Fig. 1) within the communication network (e.g. 100 in Fig. 1)⁸.

Independent claim 21 recites the following:

A system for providing media in a communication network, the system comprising:

at least one processor that locates media stored locally at least at a first geographic location (e.g., 103 in Fig. 1) in the communication network⁹;

said at least one processor organizes, at said first geographic location, said located media and at least a portion of television broadcast media into channels¹⁰; and

said at least one processor transparently transfers from said first geographic location, at least a portion of said organized channels to at least a second geographic location (e.g., 110 in Fig. 1) within the communication network (e.g. 100 in Fig. 1)¹¹.

**GROUND OF REJECTION TO BE REVIEWED ON APPEAL
(37 C.F.R. § 41.37(c)(1)(vi))**

Claims 1-5, 8-15, 18-25 and 28-31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over USPP 2002/0104099 (“Novak”) in view of USPP 2002/0054752 (“Wood”). Claims 6-7, 16-17 and 26-27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Novak and Wood in further view of USP 7,174,512 (“Martin”).

⁷ See *id.* at, e.g., page 4, lines 3-6; and page 14, line 28 – page 15, line 2.

⁸ See *id.* at, e.g., page 4, lines 6-8.

⁹ See *id.* at, e.g., page 5, lines 6-9.

¹⁰ See *id.* at, e.g., page 5, lines 6-9.

¹¹ See *id.* at, e.g., page 5, lines 9-11.

ARGUMENT
(37 C.F.R. § 41.37(c)(1)(vii))

In the Final Office Action, claims 1-5, 8-15, 18-25 and 28-31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over USPP 2002/0104099 ("Novak") in view of USPP 2002/0054752 ("Wood"). Claims 6-7, 16-17 and 26-27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Novak and Wood in further view of USP 7,174,512 ("Martin").

I. The Proposed Combination of Novak and Wood Does Not Render Claims 1-5, 8-15, 18-25 and 28-31 Unpatentable

A1. Rejection of Independent Claims 1, 11, and 21

With regard to the rejection of independent claim 1 under § 103(a), the Applicant submits that the combination of Novak and Wood does not disclose or suggest at least the limitation of "transparently transferring from said first geographic location, at least a portion of said organized channels to at least a second geographic location within the communication network," as recited by the Applicant in independent claim 1.

The Final Office Action states:

The claimed "transparently transferring from said first geographic location, at least a portion of said organized channels to at least a second geographic location within the communication network" is met by the Novak reference that teaches client terminal of end user at STB 152 receiving media files associated with the 'synthetic' channel when it is selected for viewing- whereby a 'synthetic' channel is added to an user's EPG 153 at a 2nd location, via **an emailed token or other electronic file, such as a Java applet that is automatically downloaded and triggers an update** of EPG 153 (Figs. 1, 2, 4, 9, 11; paragraphs 0041, 0058, 0059, 0080, 0085, & 0086).

Claim 21 is met as previously discussed with respect to Claim 1. In addition, Novak teaches that the upload source 122 can consist of a set top box or a PC uploading media files to a server (Fig. 1; paragraph 0055 & 0056).

See the Final Office Action at pages 7-8 and 11. The Applicant respectfully disagrees with the above argument, especially the above bolded portion. Referring to FIG. 4 of Novak, the Applicant points out that at step 406, a token or electronic file is **sent to the end user** to subscribe the end user's terminal (set top box 152) to the synthetic channel. More specifically, Novak, at ¶ 0058, discloses that the individual (who uploads the media to server or web site 124) **emails the token or other electronic file to the end user. Obviously, the user will be aware of such emailed token.**

Novak, at paragraph 0080, discloses that the token is emailed to the end user as an attachment. **Obviously, an email attachment cannot open/launch by itself, and it has to be opened/launched by the email recipient.** Paragraph 0080 further states that the subscription token updates the EPG when the token attachment is installed or launched. Therefore, **the user has to be aware of the emailed token since the token is emailed as an attachment, which has to be opened by the user in order to be installed.**

In addition, even though Novak at paragraph 0080 discloses that a Java applet or Javascript is automatically downloaded, the end user still has to manually navigate to the web site 124, and upon reaching the web site 124, the automatic applet download

takes place. **In this regard, similarly to the previous example of the token emailed as attachment, in this instance a specific action by the end user is also required so that the applet download can take place.** Therefore, the Applicant maintains that **in both of the above examples given by the Examiner, there is no transparent transferring, as alleged by the Examiner.**

In this regard, Novak also does not disclose that at least a portion of the channel itself is transparently transferred to at least a second location within the communication network, as recited in Applicant's claim 1. Furthermore, the Applicant submits that the fact that a token or an electronic file is transferred to effectuate subscription to the synthetic channel illustrates that the transfer of information is not transparent. Wood does not overcome the above deficiencies of Novak.

Accordingly, independent claim 1 is not unpatentable over the combination of Novak and Wood, and is allowable. Independent claims 11 and 21 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 11 and 21 are also allowable over the reference cited in the Office Action at least for the reasons stated above with regard to claim 1.

B. Examiner's Response to Arguments - Section 6 (page 6 of the Final Office Action)

With regard to the "transparently transferring" limitation, the Examiner states the following in page 6 of the Final Office Action:

Applicant also presents that Novak does not teach "transparently transferring from said first location, at least a portion of said organized

channels to at least a second location within the communication network" because "at step 406, a token or electronic file is sent to the end user to subscribe the end user's terminal (set top box 152) to the synthetic channel". Applicant cites Novak Paragraph [0058] "discloses that the individual (who uploads the media to server or web site 124) emails the token or other electronic file to the end user" and states that "Obviously, the user will be aware of such emailed token" (Reply Pages 19-20). The Examiner respectfully disagrees.

The Examiner first notes the Applicant has not provided evidence to support a statement of obviousness regarding the user being aware of an emailed token.

. . .

Additionally, the Examiner has also cited Novak's teachings of a Java applet that is automatically downloaded and triggers an update of EPG 153 (as described in Paragraph [0080]) to address the claimed "transparently transferring" limitation.

The Applicant respectfully disagrees, especially with the above emphasized portions of the argument. The Examiner alleges that the Applicant "has not provided evidence to support a statement of obviousness regarding the user being aware of an emailed token." In response, the Examiner is referred to paragraph 0080 of Novak, where it is disclosed that the token is emailed to the end user as an attachment. **Obviously, an email attachment cannot open/launch by itself, and it has to be opened/launched by the email recipient. Paragraph 0080 further states that the subscription token updates the EPG when the token attachment is installed or launched. Therefore, the user has to be aware of the emailed token since the token is emailed as an attachment, which has to be opened by the user in order to be installed.**

The Examiner also cites Novak's teaching of a Java applet and alleged automatic download of the applet. Even though Novak discloses that a Java applet or Javascript

is automatically downloaded, **the Examiner has not mentioned how the alleged “automatic” download takes place. More specifically, the end user has to manually navigate to the web site 124, and upon reaching the web site 124, the automatic applet download takes place. In this regard, similarly to the previous example of the token emailed as attachment, in this instance a specific action by the end user is also required so that the applet download can take place.** Therefore, the Applicant maintains that in both of the above examples given by the Examiner, there is no transparent transferring, as alleged by the Examiner.

C. Rejection of Dependent Claims 2-5, 12-15 and 22-25

Claims 2-5, 12-15 and 22-25 depend on independent claims 1, 11 and 21, respectively. Therefore, the Appellant submits that claims 2-5, 12-15 and 22-25 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 2-5, 12-15 and 22-25.

D. Rejection of Dependent Claims 8-10, 18-20 and 28-30

Claims 8-10, 18-20 and 28-30 depend on independent claims 1, 11 and 21, respectively. Therefore, the Appellant submits that claims 8-10, 18-20 and 28-30 are

allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 8-10, 18-20 and 28-30.

E. Rejection of Dependent Claim 31

Claim 31 depends on independent claim 21. Therefore, the Appellant submits that claim 31 is allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 21.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claim 31.

F. Rejection of Dependent Claims 6-7, 16-17 and 26-27

Claims 6-7, 16-17 and 26-27 depend on independent claims 1, 11 and 21, respectively. Therefore, the Appellant submits that claims 6-7, 16-17 and 26-27 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 6-7, 16-17 and 26-27.

CONCLUSION

For at least the foregoing reasons, the Appellant submits that claims 1-31 are in condition for allowance. Reversal of the Examiner's rejection and issuance of a patent on the application are therefore requested.

The Commissioner is hereby authorized to charge \$540 (to cover the Brief on Appeal Fee) and any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,

Date: 28-SEP-2009

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(OIB)

CLAIMS APPENDIX
(37 C.F.R. § 41.37(c)(1)(viii))

1. A method for providing media in a communication network, the method comprising:

locating media stored locally at least at a first geographic location in the communication network;

organizing, at said first geographic location, said located media and at least a portion of television broadcast media into channels; and

transparently transferring from said first geographic location, at least a portion of said organized channels to at least a second geographic location within the communication network.

2. The method according to claim 1, comprising displaying said organized channels in at least one constructed display.

3. The method according to claim 2, wherein said constructed display is at least one of a media guide, device guide and a channel guide.

4. The method according to claim 2, wherein said constructed display is formatted as a graphical user interface.

5. The method according to claim 2, wherein said constructed display is displayed at one or both of said first geographic location and/or said second geographic location.

6. The method according to claim 5, comprising presenting representations of locally stored media at said second geographic location and representations of said transparently transferred media in a single constructed display.

7. The method according to claim 6, comprising integrating representations of said television broadcast media in said presented single constructed display.

8. The method according to claim 1, comprising transparently transferring media corresponding to at least a selected portion of said organized channels to said at least said second geographic location.

9. The method according to claim 1, comprising updating an existing constructed display at said second geographic location to reflect said transparently transferred at least a portion of said organized channels.

10. The method according to claim 1, comprising authorizing said transparent transfer of said at least a portion of said organized channels to at least said second geographic location.

11. A machine-readable storage having stored thereon, a computer program having at least one code section for providing media in a communication network, the at least one code section being executable by a machine for causing the machine to perform steps comprising:

locating media stored locally at least at a first geographic location in the communication network;

organizing, at said first geographic location, said located media and at least a portion of television broadcast media into channels; and

transparently transferring from said first geographic location, at least a portion of said organized channels to at least a second geographic location within the communication network.

12. The machine-readable storage according to claim 11, comprising code that causes said organized channels to be displayed in at least one constructed display.

13. The machine-readable storage according to claim 12, wherein said constructed display is at least one of a media guide, device guide and a channel guide.

14. The machine-readable storage according to claim 12, wherein said constructed display is formatted as a graphical user interface.

15. The machine-readable storage according to claim 12, wherein said constructed display is displayed at one or both of said first geographic location and/or said second geographic location.

16. The machine-readable storage according to claim 15, comprising code for presenting representations of locally stored media at said second geographic location and representations of said transparently transferred media in a single constructed display.

17. The machine-readable storage according to claim 16, comprising code for integrating representations of said television broadcast media in said presented single constructed display.

18. The machine-readable storage according to claim 11, comprising code for transparently transferring media corresponding to at least a selected portion of said organized channels to said at least said second geographic location.

19. The machine-readable storage according to claim 11, comprising code for updating an existing constructed display at said second geographic location to reflect said transparently transferred at least a portion of said organized channels.

20. The machine-readable storage according to claim 11, comprising code for authorizing said transparent transfer of said at least a portion of said organized channels to at least said second geographic location.

21. A system for providing media in a communication network, the system comprising:

at least one processor that locates media stored locally at least at a first geographic location in the communication network;

said at least one processor organizes, at said first geographic location, said located media and at least a portion of television broadcast media into channels; and

said at least one processor transparently transfers from said first geographic location, at least a portion of said organized channels to at least a second geographic location within the communication network.

22. The system according to claim 21, wherein said at least one processor caused said organized channels to be displayed in at least one constructed display.

23. The system according to claim 22, wherein said constructed display is at least one of a media guide, device guide and a channel guide.

24. The system according to claim 22, wherein said constructed display is formatted as a graphical user interface.

25. The system according to claim 22, wherein said constructed display is displayed at one or both of said first geographic location and/or said second geographic location.

26. The system according to claim 25, wherein said at least one processor presents representations of locally stored media at said second geographic location and representations of said transparently transferred media in a single constructed display.

27. The system according to claim 26, comprising integrating representations of said television broadcast media in said presented single constructed display.

28. The system according to claim 21, wherein said at least one processor transparently transfers media corresponding to at least a selected portion of said organized channels to said at least said second geographic location.

29. The system according to claim 21, wherein said at least one processor updates an existing constructed display at said second geographic location to reflect said transparently transferred at least a portion of said organized channels.

30. The system according to claim 21, wherein said at least one processor receives authorization for said transparent transfer of said at least a portion of said organized channels to at least said second geographic location.

31. The system according to claim 21, wherein said at least one processor is at least one of a media processing system processor, a media management system processor, a computer processor, a media exchange software processor and a media peripheral processor.

EVIDENCE APPENDIX
(37 C.F.R. § 41.37(c)(1)(ix))

- (1) United States Publication No. 2002/0104099 (“Novak”), entered into record by the Examiner in the October 17, 2007 Office Action.
- (2) United States Patent No. 7,174,512 (“Martin”), entered into record by the Examiner in the October 17, 2007 Office Action.
- (3) United States Publication No. 2002/0054752 (“Wood”), entered into record by the Examiner in the May 5, 2009 Office Action.

RELATED PROCEEDINGS APPENDIX
(37 C.F.R. § 41.37(c)(1)(x))

The Appellant is unaware of any related appeals or interferences.